

## Message Text

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ACTION IO-03

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C O N F I D E N T I A L USUN 5327

LIMDIS

E.O. 11652: GDS

TAGS: UN, KS, KN

SUBJECT: KOREA AT 30TH GA

AS AGREED BY THE CORE GROUP, AMBASSADOR BENNETT WILL BE SEEING AMBASSADOR GHORRA SHORTLY TO DISCUSS THE PROCEDURAL SITUATION IN THE COMMITTEE. IN THIS CONNECTION WE WILL BE GIVING THE FOLLOWING PAPER ON 27 OCTOBER TO THE LEGAL COUNSEL AND EXPRESS THE HOPE HE WILL BE PRESENT WHEN THE FIRST COMMITTEE MOVES UP TO THE VOTING PHASE, PRESUMABLY ON 29 OCTOBER. THE PAPER BRINGS UP TO DATE THE MEMORANDUM ON VOTING PRIORITIES WHICH WE EARLIER PREPARED FOR THE USE OF THE CORE GROUP. QUOTE.

VOTING PRIORITIES ON KOREAN DRAFT RESOLUTIONS:

A/C.1/L.708/REV.1 HAS VOTING PRIORITY OVER A/C.1/L.709

1. WHEN THERE ARE TWO OR MORE COMPETING DRAFT RESOLUTIONS ON A SINGLE AGENDA ITEM, THE PROPOSAL THAT HAS BEEN TABLED FIRST IS ENTITLED TO BE VOTED ON FIRST UNLESS THE MAIN COMMITTEE CONCERNED DECIDES OTHERWISE. RULE 131 OF THE RULES OF PROCEDURE OF THE GENERAL ASSEMBLY PROVIDES:

"IF TWO OR MORE PROPOSALS RELATE TO THE SAME QUESTION, THE COMMITTEE SHALL, UNLESS IT DECIDES

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OTHERWISE, VOTE ON THE PROPOSALS IN THE ORDER IN WHICH THEY HAVE

BEEN SUBMITTED...." (UNDERSCORING ADDED).

2. THE DRAFT RESOLUTION IN DOCUMENT L.708/REV.1, COSPONSORED BY BARBADOS AND OTHER STATES, WAS TABLED IN ITS ORIGINAL FORM WITH THE UNITED NATIONS ON 27 JUNE 1975 (A/10142). THE PROPOSAL IN L.709, ADVANCED BY ALGERIA AND OTHER STATES, WAS TABLED WITH THE SECRETARIAT ON 8 AUGUST (A/10191). L.708/REV.1 BEARS THE LOWER NUMBER AS A SYMBOL OF ITS ENTITLEMENT TO VOTING PRIORITY UNLESS A MOTION TO OVERTURN THAT PRIORITY IS MADE, PRESSED TO THE VOTE AND ADOPTED.

3. THE PRIORITY OF L.708/REV.1 IS NOT AFFECTED BY THE DECISION OF THE GENERAL ASSEMBLY, ACTING ON THE RECOMMENDATION OF THE GENERAL COMMITTEE, TO LIST THE SUB-HEADINGS UNDER ITEM 119 "QUESTION OF KOREA," IN THE SAME ORDER AS LAST YEAR. IN 1974 THE GENERAL ASSEMBLY ADOPTED EXACTLY THE SAME ORDERING OF THE HEADINGS OF THE KOREAN ITEM WITHOUT ALTERNING VOTING PRIORITIES IN ANY WAY.

4. LAST YEAR, AS THIS YEAR, THE DRAFT RESOLUTIONS WERE NUMBERED ACCORDING TO THEIR CHRONOLOGICAL ORDER. THUS L.676/REV.1, CONTAINING THE DRAFT RESOLUTION OF BARBADOS AND OTHERS, WHICH HAD ORIGINALLY BEEN TABLED ON 3 SEPTEMBER 1974, WAS ACCORDED PRIORITY OVER L.677, WHICH HAD BEEN SUBMITTED ON 16 SEPTEMBER 1974. ACCORDINGLY, THE CHAIRMAN OF THE FIRST COMMITTEE, AMBASSADOR ORTIZ DE ROZAS, ANNOUNCED AT THE MEETING OF THE FIRST COMMITTEE ON 9 DECEMBER 1974 THAT HE WAS APPLYING RULE 131 AND INTENDED TO PUT L.676/REV.1 TO THE VOTE FIRST. CHAIRMAN ORTIZ STATED AT THAT MEETING THAT:

"THEREFORE, WHEN WE PROCEED TO THE VOTE, WE SHALL HAVE TO RESPECT RULE 131 AND PUT THE PROPOSALS TO THE VOTE IN THE ORDER IN WHICH THEY HAVE BEEN NUMBERED." (A/C.1/PV.2039, P.8)

AT THIS SAME MEETING CUBA MADE A MOTION THAT THE PRIORITY SHOULD BE GIVEN TO THE OTHER DRAFT RESOLUTION IN L.677. THE CHAIRMAN PUT TO THE VOTE THIS MOTION TO REVERSE PRIORITY, AND IT WAS DEFEATED 50 AGAINST, 48 IN FAVOR, WITH 33  
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ABSTENTIONS.

5. THE ESSENTIAL ELEMENTS OF THE CURRENT PROCEDURAL SITUATION ARE PARALLEL TO THOSE OF THE KOREAN QUESTION IN 1974. THIS YEAR THE RESOLUTION OF BARBADOS AND OTHERS, L.708/REV.1, HAS BEEN REVISED TO TRY TO ACCOMMODATE CERTAIN OTHER VIEWS, IN PARTICULAR THOSE OF FRANCE AND OTHER CO-SPONSORS OF A SERIES OF AMENDMENTS TO L.708 THAT WERE

SET FORTH IN L.710; L.708/REV.1 INCORPORATES WITHOUT CHANGE THE ENTIRE SET OF AMENDMENTS IN L.710. THE FACT OF REVISION HAS NO EFFECT ON THE PRIORITY OF L.708/REV.1 OVER L.709, JUST AS LAST YEAR IT HAD NO EFFECT ON THE PRIORITY OF L.676/REV.1 OVER L.677. IT WOULD BE ENTIRELY IN ORDER FOR ALGERIA TO MOVE TO ACCORD PRIORITY TO L.709, AS LAST YEAR CUBA MOVED TO GIVE PRIORITY TO L.677. THE LETTER OF ALGERIA TO THE SECRETARY-GENERAL OF 18 SEPTEMBER 1975 (A/C.1/1061) IS, PRESUMABLY, A MOTION TO ACCORD PRIORITY TO L.709. IT IS TO BE ASSUMED THAT, IF ALGERIA SO DESIRES, THE CHAIRMAN OF THE FIRST COMMITTEE WILL PUT THIS MOTION TO THE VOTE, JUST AS, IN 1975, THE CHAIRMAN PUT THE CUBAN MOTION TO THE VOTE.

6. IT HAS BEEN ARGUED THAT L.709 IS MORE INCLUSIVE SINCE IT SPEAKS OF A PEACE AGREEMENT, WHILE L.708/REV.1 IS CONCERNED MAINLY WITH THE ARMISTICE AGREEMENT. LIKEWISE IT HAS BEEN ARGUED THAT L.709 IS MORE POPULAR. THESE DUBIOUS ARGUMENTS WOULD, IF CORRECT, BE RELEVANT TO A MOTION TO REVERSE PRIORITY. HOWEVER, THEY ARE IRRELEVANT TO THE QUESTION OF WHICH RESOLUTION SHOULD BE VOTED IN FIRST ABSENT A DECISION TO REVERSE THE EXISTING PRIORITY.

7. AT THE END OF THE FIRST MEETING ON THE KOREAN QUESTION, ON THE MORNING OF 21 OCTOBER 1975, SENEGAL QUESTIONED WHETHER L.708/REV.1 IS A REVISION OF L.708; SENEGAL SAID IT IS A NEW RESOLUTION AND IMPLIED THAT, SINCE THE REVISION MADE ITS APPEARANCE ON 14 OCTOBER AND AFTER THE ALGERIAN DRAFT IN L.709 OF 24 SEPTEMBER, L.709 SHOULD BE ENTITLED TO PRIORITY. THIS ARGUMENT HAS NO LEGAL BASIS: (A) A SPONSOR CAN ALWAYS, PRIOR TO VOTING, REVISE HIS PROPOSAL, AND, IF HE HAS PRIORITY UNDER RULE 131, HE DOES NOT LOSE IT BY HIS REVISION. OTHERWISE, NO ONE WOULD EVER

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ALTER HIS PROPOSALS, AND THE CONCILIATION AND HARMONIZATION SOUGHT BY THE CHARTER WOULD BE PREVENTED. (B) THE FREQUENT PRACTICE OF REVISION WITHOUT CHANGING PRIORITY IS MOST RECENTLY REFLECTED IN THE KOREAN QUESTION IN 1974. AS NOTED ABOVE, THE CHANGES MADE TO L.676, WHICH WERE REFLECTED IN L.676/REV.1, DID NOT AFFECT THAT PROPOSAL'S PRIORITY OVER L.677, NOTWITHSTANDING THE FACT THAT THE REVISION OF L.676 IN L.676/REV.1 DID NOT APPEAR UNTIL AFTER L.677. IT THEREFORE APPEARS THAT THE RELEVANT PROCEDURAL QUESTION IS WHETHER L.708/REV.1 IS ENTITLED TO PRIORITY OVER L.709, NOT WHETHER L.708/REV.1 IS A "NEW" RESOLUTION. IRONICALLY, IT MAY BE RECALLED THAT, AT THE FIRST COMMITTEE MEETING ON THE AFTERNOON OF 21 OCTOBER 1975, THE REPRESENTATIVE OF CHINA, SPEAKING OF L.708/REV.1, SAID:

"AS FOR THE AMENDED UNITED STATES DRAFT RESOLUTION,

IT HAS NOT IN THE LEAST CHANGED THE FUNDAMENTAL  
ESSENCE OF THE ORIGINAL UNITED STATES DRAFT RESOLUTION  
BUT ONLY ADDS SOME COSMETICS TO IT.  
CERTAINLY THIS IS OF NO AVAIL AND HAS NO VALUE AT  
ALL." /A/C.1/PV.2061/ UNQUOTE  
BENNETT

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